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SUBJECT: SECRETARY GUTIERREZ AND MINISTER OF INDUSTRY AND TRADE HOANG
TALK TRADE

REF: Ho Chi Min 1131

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11. (SBU) U.S. Secretary of Commerce Carlos Gutierrez met the newly appointed Vietnamese Minister of Industry and Trade of Vietnam Vu Huy Hoang on November 7 to explore commercial opportunities in a rising Vietnam. The Vietnam Apparel Import Monitoring program and current anti-dumping orders topped the Minister's list of concerns, while Secretary Gutierrez raised trading and distribution rights, IPR and project licensing -- issues that were foremost on the minds of the 22 U.S. companies in his trade delegation. Looking forward, Minister Hoang asked for the Secretary's support for Generalized System of Preferences (GSP), a bilateral investment treaty (BIT) and market economy status. End summary.

Textile Monitoring and Antidumping

12. (SBU) Minister Hoang opened by thanking the Secretary, on behalf of producers in the garments and textiles sectors, for Commerce's help in allowing Vietnamese companies to continue exporting to the United States. Vietnam appreciates the recent announcement that Commerce found no evidence of dumping and will not self-initiate an anti-dumping case on garments imports from Vietnam. He asked the Secretary to help abolish this mechanism because it causes uncertainty among buyers, and because it is not appropriate under the WTO. If the mechanism cannot be totally abolished, he called for the reduction of the number of line items under monitoring, especially those not produced in the United States.

13. (SBU) The Secretary reassured his counterpart that the textile monitoring mechanism was a necessary accommodation the Administration made with Congress to approve Permanent Normal Trade Relations (PNTR) for Vietnam, and the program will expire at the end of the Administration in 2009. He added that the good news is that the first of three reviews found no evidence of dumping and pledges that the process will remain a transparent legal process, not politically driven.

14. (SBU) The Minister expressed his hope that Commerce will start analysis soon to reduce the number of line items under the monitoring mechanism. The Secretary promised to explore the possibility for reducing the number of product line items subjected to monitoring, currently 468 in five categories.

15. (SBU) Secretary Gutierrez proposed to Minister Hoang holding

a trade remedy exchange program aimed at providing Vietnamese officials with a better understanding of this complex set of issues and asked Assistant Secretary David Spooner to brief the Minister of the status of the frozen fish fillets and shrimps anti dumping cases. Minister Hoang told the Secretary as many as 9 to 10 million people depend on the seafood industry for their livelihoods. He asked the Secretary to help facilitate and reduce measures that limit Vietnamese exports of shrimps and frozen fish fillet to the United States.

Trading and Distribution Rights

¶16. (SBU) The Secretary next raised trading and distribution as an area of critical importance to U.S. companies where there is still much confusion. Minister Hoang said he understands that U.S. exporters' position is that they should not be limited by the number of distributors. However, according to the Minister, implementation of distribution rights should be done step-by-step to increase the number of distributors in Vietnam and he is listening to suggestions from foreign distributors. His Ministry is working with USTR and learning about the U.S. experience in distribution. The Minister indicated that Vietnam will adhere to the provision of paragraph 147 (the portion of the WTO working party report providing for multiple distributors).

Major Project Licensing

¶17. (SBU) The Secretary then mentioned the sizeable trade deficit and the letter he sent to Prime Minister Nguyen Tan Dung expressing hope for contract signing for key projects. He briefly mentioned major advocacy projects including the Boeing contract for 12 Dreamliners, GE Capital's interest in a 20 percent stake of state-owned Vietcombank, AES's Mong Duong coal-fired power plant, SSA Marine's joint venture to develop and operate a port, Gannon's proposed power project to supply industrial zones in Dong Nai province. On Gannon, the Secretary specifically raised Gannon's difficulty in obtaining a meeting with Electricity of Vietnam.

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¶18. (SBU) Minister Hoang carefully responded to every advocacy projects raised by the secretary. The Boeing deal will be finalized soon. MoIT supports GE Capital's project with Vietcombank. SSA marine's services are much needed to improve Vietnam's logistical efficiency for export. Gannon has received guidance on their proposed power project and has just turned in a revised proposal using oil as fuel.

Encouraging More on IPR

¶19. (SBU) The Secretary raised the importance of IPR protection to foreign investors, saying that countries that protect IPR will enjoy a competitive advantage in the future. He recognized Vietnam's good progress in building the legal framework for IPR protection, and cited the Microsoft contracts as good examples of implementation.

¶10. (SBU) Minister Hoang cited a range of statistics intended to show increased enforcement for both administrative and criminal cases. The Minister admitted that IPR enforcement need stronger measures to be effective. He informed the Secretary that a draft circular on criminal enforcement has been sent to the U.S. side for review and that the Vietnamese Supreme Court will formally issue the circular after full consultation with all stake holders.

The Road Forward: GSP, BIT and NME Status

¶11. (SBU) The Minister assured the secretary that no one can dampen progress in Vietnam and offer to work together to resolve obstacles. Minister Hoang asked for Commerce support in the process of preparing its petition for Generalized System of Preference (GSP) status. Minister Hoang also asked for market economy status for Vietnam as soon as possible, and earliest

possible negotiation of a bilateral investment treaty (BIT). MPI has the lead on BIT negotiations, but MoIT coordinates very closely with MPI on investment issues. The Minister told the Secretary that Vietnam supports the Doha round, but indicated

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that Vietnam is not ready to take higher obligations than its WTO accessions commitments.

¶12. (SBU) He added that President Bush and his administration highly value the growing friendship and relationship between our two countries. The Secretary said will convey Vietnam's interest in GSP and BIT to the USTR, which is responsible for those issues. On the Doha round the Secretary will ensure USTR is aware of Vietnam's request and that Vietnam is treated fairly.

¶13. (SBU) The Secretary explained that market economy status has six criteria. If interested, Vietnam should make a formal request for review under this quasi-judicial (rather than political) decision process. Minister Hoang suggested that the U.S. takes a similar approach to the EU in assessing Vietnam's market economy status, recognizing market economy qualifications one measure at a time.

¶14. (SBU) The Secretary thanked Minister Hoang for the candid discussion of issues and invited the latter to visit when in Washington.

Comment:

¶15. (SBU) During his visit, Secretary Gutierrez clearly laid out the range of issues that U.S. business identified as impediments to further U.S. exports to and investment in Vietnam. The Minister argued that a year after WTO entry, Vietnam is implementing its WTO commitments in a serious manner, but it is not unusual for some issues to arise. Still, the Minister's wish list of future activities ensures that the United States continues to have considerable leverage to exert to help resolve trade and investment issues. End comment.

¶16. (U) This cable was drafted and cleared by the delegation.
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